UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:11-cv-125-RJC

(3:06-cr-48-RJC-CH-1)

JIMMIE VANCE GRUBBS,)	
Petitioner,)	
vs.)	<u>ORDER</u>
UNITED STATES OF AMERICA,)	
Respondent.))	

THIS MATTER is before the Court on limited remand from the Court of Appeals for the Fourth Circuit to determine whether Petitioner has shown excusable neglect or good cause for failing to file his notice of appeal in a timely manner. (Doc. No. 21: Opinion).

This Court dismissed Petitioner's action brought under 28 U.S.C. § 2255 on May 17, 2013. (Doc. No. 15: Order). Petitioner's Notice of Appeal was filed, at the earliest, on July 30, 2013. (Doc. No. 17). In his Notice of Appeal, Petitioner states that never received this Court's Order dismissing his motion to vacate and only became aware of it on July 25, 2013, when he received notice from the Fourth Circuit Court of Appeals denying his petition for writ of mandamus as moot. (Doc. No. 17 at 1). Therefore, he claims he was prevented from filing a timely appeal. In light most favorable to Petitioner's explanation for his untimely filing, this Court finds that Petitioner has shown good cause warranting an extension of the appeal period.

The Clerk of this Court is instructed to notify the Court of Appeals for the Fourth Circuit of this Order.

-1-

¹ Petitioner also claims he notified the Court on July 27, 2013, that he had not received a copy of the Order dismissing his § 2255 motion. (Doc. No. 17: Notice of Appeal at 2). That letter does not appear in the record of this case.

Signed: January 10, 2014

Robert J. Conrad, Jr. United States District Judge